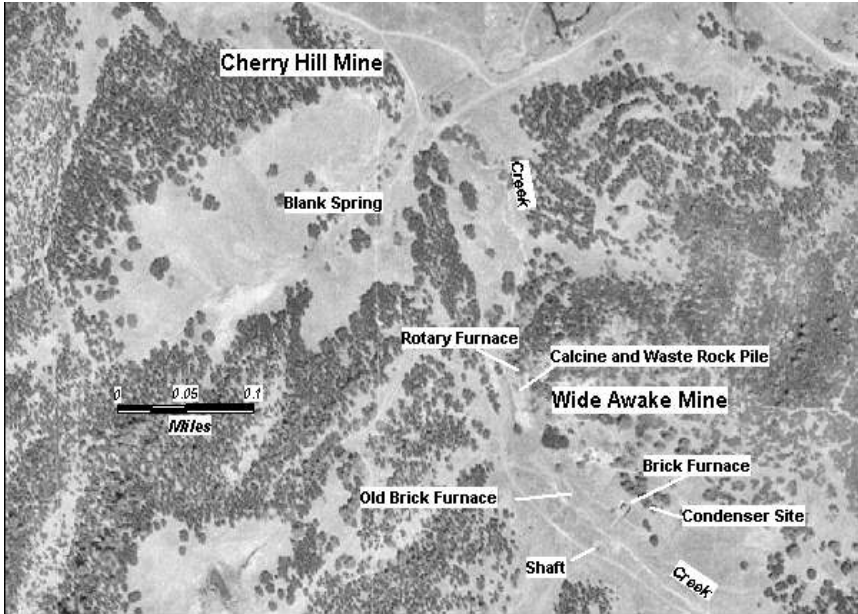
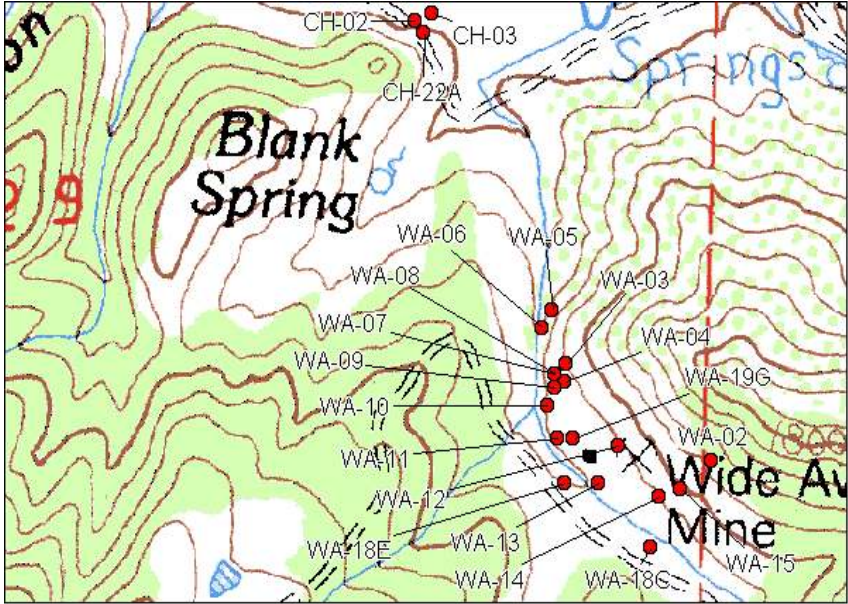


Mine Cleanup and Abatement Order

Responsible Parties	NBC Leasing Inc., David G. Brown, Roy Tate, and Merced General Construction Inc., Period of Ownership, August 15, 1990 to Present.
Parcel Controlled:	Lots 37, 43, and 44 in Sections 28 and 29, Township 14 North, Range 5 West, M. D. B & M (Colusa County APN# 018-200-010-000, 018-200-011-000, 018-200-012-000).
Map:	  <p>Map source: CALFED Task 5C1 Appendices, September 2003.</p>

Waste Located on the Site:	<p>Contaminated media at Wide Awake Mine includes:</p> <ul style="list-style-type: none"> • 8,000 cubic yards of waste rock. • 20,000 cubic yards of processed mill tailings. • An estimated 400 kg of mercury remains at the Wide Awake Mine, almost entirely within the tailings and waste pile. • Furnaces and retorts are present. Significant processing took place on-site. • Ore from the Central, Empire, and possibly Manzanita Mine was milled at the Wide Awake Mine site. • Soil samples collected at 15 locations. Mercury concentrations of less than 10 to 1,040 ppm in soil and waste materials near furnaces. • Mercury concentrations detected in mine waste at Wide Awake Mine exceed both human health and ecological Preliminary Mitigation Goals.
Discharge:	<p>5C2 Report found that, "Past mining activities has likely increased mercury mobility from the Wide Awake Mine by placing mercury-bearing materials in piles subject to erosion.</p> <ul style="list-style-type: none"> • Mercury is mobilized by storm water runoff, slope failure, or water rock interaction from mine wastes at Wide Awake Mine and enters the unnamed intermittent tributary to Sulphur Creek. • Approximately 8 ton/yr of sediment is estimated to erode from the mine waste located immediately adjacent to and within the tributary to Sulphur Creek.
Ability to Control:	<p>The Responsible Parties own APN 018-200-10-000, 018-200-11-000, and 018-200-12-000, which is commonly referred to as the Wide Awake Mine and have had the ability to prevent mine materials and enriched mercury soil from entering waterways. Specific activities could have included:</p> <ul style="list-style-type: none"> • Relocating material piles away from waterways. • Placing barriers, such as grass covered berms, between mine materials and waterways. • Recontouring and revegetation of material piles and areas of surface disturbance by mining activity to reduce erosion. • Redirection of storm runoff around material piles and areas of surface disturbance to reduce erosion. • Stabilization of stream banks containing enriched mercury alluvium to minimize erosion during storm events.
Legal Theory Holding Responsible Party Accountable	<p>NBC Leasing Inc., David G. Brown, Roy Tate, and Merced General Construction Inc. (Dischargers) are subject to the Order because the Dischargers currently hold title to the property, and the waste piles are discharging mercury and other pollutants to surface waters, which is causing exceedances of water quality objectives. Evidence that the Dischargers holds title to the relevant parcels can be found in the documents referenced herein, which are in the files of the Central Valley Water Board. The waste piles are still present on the property.</p> <p>California Water Code (CWC) section 13304 authorizes the Regional Water Boards to issue cleanup and abatement orders to any person who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be,</p>

	<p>discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance</p> <p>The Dischargers, by taking title to the property where mining waste piles are present, took title to the mining waste piles, and thereby assumed responsibility for appropriately managing the discharges from these waste piles. As these waste piles are currently eroding into surface waters, the Dischargers qualify as persons who, “causes or permits ... waste ... to be discharged into waters of the state.”</p> <p>Studies conducted during the development of a TMDL for the Cache Creek Watershed, including the CalFed 5C2 Report, determined that the erosion of materials from the waste piles present on the parcels that the Dischargers control contributes to a condition of pollution, defined under CWC section 13050 as an alteration of the quality of waters of the state to a degree which unreasonably affects the waters for beneficial uses.</p> <p>In addition to the initial release of pollutants into the environment, the State Water Resources Control Board (State Board) has determined that the passive release of pollutants is considered a “discharge” of waste for the purposes of determining liability under CWC section 13304. (State Board Order No. WQ 86-2, In the Matter of the Petition of Zoecon Corporation; State Board Order No. WQ 92-13, In the Matter of the Petitions of Wenwest, Inc., et al.) The scope of the Discharger’s property interests indicates that the Dischargers have the ability to control the discharge of the legacy wastes.</p> <p>The State Board has ruled that liability for a cleanup ordered under section 13304 is joint and several. (State Board Order No. WQ 90-2, Petition of Union Oil Company.) However, the State Board has declined to apportion liability among responsible parties, leaving that determination to the parties themselves. It is the responsibility of the Dischargers to determine their responsibility relative to the other named dischargers, and to cooperatively address the tasks required of the responsible parties in the Order.</p>												
Evidence in the Regional Water Board File	<p>1. Colusa County Assessors Inquiry – Ownership Detail for Asmt: 018-200-011-000, 018-200-011-000, and 018-200-012-000 showing;</p> <table><tr><td>Owner</td><td>GrantingDocNum</td><td>Ownership</td></tr><tr><td>Brown David</td><td>2004R1726</td><td>25.00%</td></tr><tr><td>Tate Roy</td><td>2004R1726</td><td>25.00%</td></tr><tr><td>NBC Leasing</td><td>2004R1726</td><td>50.00%</td></tr></table> <p>2. Colusa County document # 99 004009 dated September 10, 1999, Individual Grant Deed showing that Cal Sierra Properties granted to David G. Brown and Roy Tate an undivided one-half interest in Lots 43 and 44 in Sections 28 and 29, Township 14 North, Range 5 West, M. D. B & M.</p> <p>3. Colusa County document #2005-0003732 dated June 7, 2005, Grant deed showing that Glen Mills, Inc., a California Corporation granted to Merced General Construction, Inc., Lots 43 and 44 in Sections 28 and 29, Township 14 North, Range 5 West, M. D. B & M</p>	Owner	GrantingDocNum	Ownership	Brown David	2004R1726	25.00%	Tate Roy	2004R1726	25.00%	NBC Leasing	2004R1726	50.00%
Owner	GrantingDocNum	Ownership											
Brown David	2004R1726	25.00%											
Tate Roy	2004R1726	25.00%											
NBC Leasing	2004R1726	50.00%											

Photographic evidence pertaining to this parcel (if available)



Photo1. Wide Awake Mine Brick Furnace above the unnamed intermittent tributary to Sulphur Creek. A Hydroxylamine HCl leaching procedure performed on soil below the condenser site and brick fragments and soil at the base of the furnace mobilized 6 and 21 percent of the total mercury within the respective samples. These values represented the highest mercury mobility of all the leaching analyses in the District during the CALFED study (CVWB Photo, 2002).



Photo 2. Processed tailings are typically red in color because of oxidized iron. Tailings are the solid waste material that remains after mercury ore is processed in a furnace or retort. Mercury is being released from this Wide Awake Mine waste

pile to Sulphur Creek by erosion from this waste pile into a small creek which is tributary to Sulphur Creek (CVWB Photo, 2002).



Photo 3. Approximately 8 ton/yr of sediment is estimated to erode from Wide Awake mine waste piles located immediately adjacent to and within a tributary to Sulphur Creek (CVWB Photo, June 2009).